

The purchase of an inkjet cartridge refiller unit does not qualify for the Manufacturing Machinery and Equipment exemption from sales tax. See the Department's regulation for this exemption at 86 Ill. Adm. Code 130.330. (This is a GIL.)

August 22, 2006

Dear Xxxxx:

This letter is in response to your letter dated April 19, 2006, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

ABC is investigating the Sales and Use tax treatment of a purchase transaction involving tangible personal property that will have a taxable situs in your state.

We hereby request a ruling to clarify the application of your state sales and use tax law with respect to the transaction described below.

Transaction Background:

The equipment in question, Ink-O-Dem (Inkjet Cartridge Refiller) will be purchased for placement in ABC retail store locations.

Equipment, Features and Use:

The Ink-O-Dem (the Unit) will be installed on site in our retail store locations. The Unit will be used by trained store personnel to refill customers Inkjet Cartridge's [sic]. The Unit performs the following functions during the refilling process:

- Pretests for electrical malfunctions

- Evacuates old ink
- Flushes/ Cleans printhead
- Replenishes ink supply
- Performs print test

ABC's primary business is the operation of retail drug stores, but we believe that a sales/use tax exemption may qualify based on the type and/or process use of the equipment under Manufacturing or Industrial Processing statutes or other provisions existing in your state laws.

We respectfully request your review of the facts presented and situations described above. Also we would appreciate you furnishing is [sic] authority for your response (statute, regulation, rulings, opinions, etc.). We certainly appreciate your assistance in this matter. If you have any questions or need any additional information please call me. The response should be mailed to the undersigned at:

NAME/ADDRESS

DEPARTMENT'S RESPONSE

Based upon the information presented in your letter, we do not think the purchase of an Ink-O-Dem (inkjet cartridge refiller) unit qualifies for the Manufacturing Machinery and Equipment exemption from sales tax. See the Department's regulation for this exemption at 86 Ill. Adm. Code 130.330.

As you can see under subsection 130.330(a), the manufacturing machinery and equipment only applies to sales of machinery and equipment used primarily in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. We are assuming that the Ink-O-Dem is used to refill a cartridge provided by the customer. If that is the case, then there is no tangible personal property being manufactured or assembled for wholesale or retail sale or lease. As a result, the exemption will not apply. Please also note that tax is due on the ink transferred incident to the refill service based upon how the serviceman calculates tax.

Under the Service Occupation Tax Act, businesses providing services (i.e. servicemen) are taxed on tangible personal property transferred as an incident to sales of service. See 86 Ill. Adm. Code 140.101. The purchase of tangible personal property that is transferred to the service customer may result in either Service Occupation Tax liability or Use Tax liability for the servicemen depending upon his activities. The serviceman's liability may be calculated in one of four ways:

- (1) separately stated selling price of tangible personal property transferred incident to service;
- (2) 50% of the servicemen's entire bill;
- (3) Service Occupation Tax on the servicemen's cost price if the servicemen are registered de minimis servicemen; or
- (4) Use Tax on the servicemen's cost price if the servicemen are de minimis and are not otherwise required to be registered under Section 2a of the Retailers' Occupation Tax Act.

If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you

wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote
Associate Counsel

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